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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re application of:	Shamay IZHAR	Confirmation No.:	8900
Application No.:	09/411,863	Group Art Unit:	1638
Filing Date:	October 4, 1999	Examiner:	Anne R. Kubelik
For:	A METHOD OF PRODUCING A MALE-STERILE PLANT BY EXOGENIC ALLELISM	Attorney Docket No.:	85189-4300

PRIOR ART SUBMISSION UNDER 37 C.F.R. §1.501

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Enclosed are copies of eleven (11) references, which are presently located in the electronic file of the subject application, as determined by the Patent Application Information Retrieval ("PAIR") system, but that were not cited in a Form PTO-1449 by Applicant's previous attorney or in a Form PTO-892 by the Examiner. The references enclosed are as follows:

1. U.S. Patent No. 5,773,697, issued June 30, 1998, to Tomes et al.;
2. U.S. Patent No. 5,789,215, issued August 4, 1998 to Berns et al.;
3. U.S. Patent No. 5,877,400, issued March 2, 1999 to Tomes et al.;
4. U.S. Patent No. 6,063,627, issued May 16, 2000 to McVey et al.;
5. U.S. Patent No. 6,110,736, issued August 29, 2000 to Hodges et al.;
6. PCT International Publication No. WO 99/23233, published May 14, 1999 to Mogen International N.V.
7. Deroles, S.C. et al., "Expression and inheritance of kanamycin resistance in a large number of transgenic petunias generated by *Agrobacterium*-mediated transformation," *Plant Mol. Biol.*, Vol. 11, pp. 355-364 (1988)
8. Dunwell, J.M. et al., "Impact of Genetically Modified Crops in Agriculture," *Outlook on Agriculture*, Vol. 19, No. 2, pp. 103-109 (1990)
9. Finnegan, J. et al., "Transgene Inactivation: Plants Fight Back!" *Bio/Technology*, Vol. 12, pp. 3-8 (1994)

10. Gidoni, D. et al., "FLP/frt - Mediated Restoration of Wild-Type Phenotypes and Development of Clonal Sectors in roIC Transgenic Tobacco," from Book of Abstracts, ISPMB Québec l'an 2000, 6th International Congress of Plant Molecular Biology, Québec, Canada, June 18-24, 2000
- 11 van der Hoeven, C. et al., "Variability of organ-specific gene expression in transgenic tobacco plants," *Transgenic Research*, Vol. 3, pp. 159-165 (1994)

These references have been reviewed by the applicant, the assignee, and their attorneys, and it has been determined that none of the references are material to the patentability of the present claims. Thus, applicants have no basis to ask the examiner to formally review the references and make them of record at this time. It is also believed that the Examiner had reviewed the references and in any event, they clearly were not utilized in formulating any rejections. Accordingly, it is respectfully requested that this letter simply be placed into the file of this application to explain the presence of these references in the file.

Applicant believes that no fee is required for the submission of these references. Should any fees be required, however, please charge such fees to Winston & Strawn LLP Deposit Account No. 50-1814.

Respectfully submitted,

7/12/04
Date

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